



## CITY OF NEWPORT BEACH COMMUNITY DEVELOPMENT DEPARTMENT PLANNING DIVISION ACTION REPORT

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION  
FROM: Seimone Jurjjs, Community Development Director  
SUBJECT: Report of actions taken by the Zoning Administrator and/or Planning Division staff for the week ending March 2, 2018.

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### ZONING ADMINISTRATOR ACTIONS FEBRUARY 27, 2018

- Item 1: Roberts Residence Coastal Development Permit No. CD2017-081 (PA2017-187)  
Site Address: 1549 Ocean Boulevard  
Action: Approved by Resolution No. ZA2018-017 Council District 1
- Item 2: Wong Residence Coastal Development Permit No. CD2017-098 (PA2017-229)  
Site Address: 1316 West Bay Avenue  
Action: Approved by Resolution No. ZA2018-018 Council District 1
- Item 3: Wortsman Residence Coastal Development Permit No. CD2018-013 (PA2018-035)  
Site Address: 309 33rd Street  
Action: Approved by Resolution No. ZA2018-019 Council District 1
- Item 4: Patterson Residence Coastal Development Permit No. CD2017-085 (PA2017-199)  
Site Address: 312 35th Street  
Action: Approved by Resolution No. ZA2018-020 Council District 1
- Item 5: Agape Art Collective Minor Use Permit No. UP2017-031 (PA2017-232)  
Site Address: 365 Old Newport Boulevard  
Action: Referred to Planning Commission Council District 2
- Item 6: Cefalia Residence Coastal Development Permit No. CD2017-074 (PA2017-178)  
Site Address: 2123 East Balboa Boulevard  
Action: Approved by Resolution No. ZA2018-021 Council District 1
- Item 7: Bengston Residence Coastal Development Permit No. CD2017-024 (PA2017-058)  
Site Address: 111 8th Street  
Action: Approved by Resolution No. ZA2018-022 Council District 1

Item 8: Altieri Residence Coastal Development Permit No. CD2017-065 (PA2017-154)  
Site Address: 6310 West Ocean Front

Action: Approved by Resolution No. ZA2018-024 Council District 1

Item 9: Guida Residence Coastal Development Permit No. CD2017-102 (PA2017-239)  
Site Address: 501 Via Lido Soud

Action: Approved by Resolution No. ZA2018-025 Council District 1

Item 10: Todd Residence Coastal Development Permit No. CD2017-105 (PA2017-247)  
Site Address: 41 Beacon Bay

Action: Approved by Resolution No. ZA2018-026 Council District 5

APPEAL PERIOD: An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

## RESOLUTION NO. ZA2018-017

### A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2017-081 AUTHORIZING A REMODEL AND ADDITION TO AN EXISTING SINGLE-FAMILY RESIDENCE LOCATED AT 1549 OCEAN BOULEVARD (PA2017-187)

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Dave Eslinger of Sea Pointe Construction, with respect to property located at 1549 Ocean Boulevard, requesting approval of a Coastal Development Permit.
2. The property is legally described as Lot 33 of Tract 518.
3. The applicant proposes a coastal development permit (CDP) to allow a 342-square-foot addition and remodel to an existing single-family residence. The project includes a 77-square-foot second floor addition and 265-square-foot third floor addition including a roof deck. The height of the structure is proposed to be 29 feet. The project complies with all applicable development standards and no deviations are requested.
4. The subject property is located within the R-1 (Single-Unit Residential) Zoning District and the General Plan Land Use Element category is RS-D (Single-Unit Residential Detached).
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RSD-C (Single-Unit Residential Detached – 10.0-19.9 DU/AC).
6. A public hearing was held on February 27, 2018, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

#### SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations Section 15301, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 1 (Existing Facilities).
2. Class 1 exempts additions of up to 10,000 square feet to existing structures where public services and utilities are available and the area is not considered environmentally sensitive. The proposed project is an addition of less than 10,000 square feet to an existing single-unit residence in a developed neighborhood and is not within an environmentally sensitive area.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015 (Coastal Development Permits, Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

#### Finding:

A. *Conforms to all applicable sections of the certified Local Coastal Program.*

#### Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
  - a. The maximum floor area limitation is 3,538 square feet and the proposed floor area is 3,220 square feet.
  - b. The proposed development provides the minimum required setbacks, which are 9 feet along the front property line, 3 feet along each side property line and 0 feet along the rear property line abutting the alley.
  - c. The highest guardrail is no more than 24 feet from established grade and the highest ridge is no more than 29 feet from established grade, which complies with the maximum height requirements.
  - d. The project includes existing garage parking for two vehicles, complying with the minimum two-car garage parking requirement.
2. The neighborhood is predominantly developed with two- and three-story single-family and two-unit residences. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development.
3. The proposed development is not located on the shoreline. The proposed finished floor is 11.49 feet (NAVD 88) which is higher than the 9.00 feet (NAVD 88) minimum elevation standard. As such, impacts from future sea level rise are not anticipated.
4. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.
5. There is no landscaping proposed as a part of this project.

6. The property is not located near designated public view points or coastal view roads and will not impact public coastal views.

Finding:

- B. *Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.*

Fact in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline on the Balboa Peninsula. NBMC Section 21.30A.040 requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. The project involves the addition of 342 square feet to an existing single-family residence. Therefore, there is no change in land use and the proposed increases in floor area, height and bulk will not result in any significant adverse impacts to public recreation, access or views or otherwise diminish the public's use of the ocean, harbor, bay, channels, estuaries, salt marshes, sloughs, beaches, coastal parks, trails, or coastal bluffs.
2. The existing residential lot does not currently provide nor inhibit public coastal access. The property is located less than 100 feet from the public beach; however, nearby vertical lateral public access is provided at street ends throughout Balboa Peninsula.

SECTION 4. DECISION.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2017-81, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

**PASSED, APPROVED, AND ADOPTED THIS 27<sup>TH</sup> DAY OF FEBRUARY, 2018.**



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Patrick J. Alford, Zoning Administrator

**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

*(project specific conditions are italicized)*

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. *The final construction plans shall demonstrate compliance with NBMC Section 20.40.090 and shall provide minimum clear interior garage dimensions of 18 feet 6 inches wide by 19 feet deep.*
3. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new Coastal Development Permit.
4. Coastal Development Permit No. CD2017-081 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
5. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
6. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvement in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
7. Prior to the issuance of building permits, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
8. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
9. Prior to the issuance of building permits, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Coastal Development file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Coastal Development Permit.
10. Construction activities shall comply with NBMC Section 10.28.040, which restricts hours of noise-generating construction activities to between the hours of 7 a.m. and 6:30 p.m., Monday through Friday and 8 a.m. and 6 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.

11. Prior to the issuance of building permits, the applicant shall submit a final drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.
12. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
13. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stock piles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
14. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
15. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
16. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain, or result in impacts to environmentally sensitive habitat areas, streams, wetland or their buffers.
17. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
18. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Roberts Residence including, but not limited to, Coastal Development Permit No. CD2017-081 (PA2017-187). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

## RESOLUTION NO. ZA2018-018

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2017-098 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW SINGLE-FAMILY RESIDENCE AND ATTACHED 2-CAR GARAGE LOCATED AT 1316 WEST BAY AVENUE (PA2017-229)**

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by John Morgan Architect on behalf of Douglas Wong, with respect to property located at 1316 West Bay Avenue, requesting approval of a coastal development permit.
2. The lot at 1316 West Bay Avenue is legally described as Lot 9 in Block 2 of Tract 626 in the City of Newport Beach of the County of Orange, California.
3. The applicant proposes a coastal development permit (CDP) for the demolition of an existing single-family dwelling and the construction of a new, 4,311-square-foot, three-story single-family dwelling including a 475-square-foot two-car garage. The project includes hardscape, drainage, and landscaping improvements, a cantilevered concrete deck and a reinforced bulkhead. The proposed development complies with all applicable development standards including height, setbacks, and floor area limits. No deviations are requested.
4. The subject property is designated RS-D (Single-Unit Residential Detached) by the General Plan Land Use Element and is located within the R-1 (Single-Unit Residential) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Single Unit Residential Detached (RSD-C) and it is located within the Single-Unit Residential (R-1) Coastal Zone District.
6. A public hearing was held on February 27, 2018, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

#### SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations Section 15303, Article 19 of Chapter 3, Guidelines for Implementation of the



California Environmental Quality Act (CEQA) under Class 3, because it has no potential to have a significant effect on the environment.

2. Class 3 exempts the demolition of up to three single-family residences and additions of up to 10,000 square feet to existing structures. The proposed project consists of the demolition of one single-family residence and the construction of a new 4,311-square-foot single-family residence including an attached 475-square-foot 2-car garage.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015 (Coastal Development Permits, Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

#### Finding:

- A. *Conforms to all applicable sections of the certified Local Coastal Program.*

#### Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
  - a. The maximum floor area limitation is 4,572 square feet and the proposed floor area is 4,311 square feet.
  - b. The proposed development provides the minimum required setbacks, which are 25 feet along the front property line abutting the water, 3 feet along each side property line and 5 feet along the second frontage on West Bay Avenue.
  - c. The highest guardrail is no more than 24 feet from established grade and the highest ridge is no more than 29 feet from established grade, which comply with the maximum height requirements.
  - d. The project includes garage parking for a total of two vehicles, complying with the minimum three-car garage parking requirement for single-family residences with more than 4,000 square feet of habitable floor area.
2. The neighborhood is predominantly developed with two- and three-story, single-family and two-family residences. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development.
3. The project site is protected by an existing cast-in-place concrete bulkhead with the top of the bulkhead elevation at 8.00 feet (NAVD88). A Bulkhead Conditions Report was prepared by PMA Consulting on October 25, 2017, and concluded that the existing

concrete bulkhead was in good condition. The existing bulkhead is proposed to be reinforced to support the cantilevered deck, which includes a curb with a height of 10 feet NAVD88 and exceeds the City's Harbor Design Criteria standard of 9.82 feet NAVD88 (10.00 feet MLLW). The Bulkhead Conditions Report concluded that the reinforced bulkhead with the cantilevered deck and raised curb will protect the proposed development and adjacent development.

4. The proposed cantilevered concrete deck has been designed in compliance with patio deck standards of Municipal Code Section 21.30C.050.G5. Specifically, the deck projects a maximum of five feet beyond the bulkhead, maintains minimum setbacks of five feet from the prolongations of the side property lines, and is located outside tidelands trust. However, the projection beyond the bulkhead falls under permit jurisdiction of the California Coastal Commission. Since the proposed deck includes an integrated raised curb needed to protect the development against future sea level rise, a condition of approval has been included requiring the applicant to apply for and obtain approval of a coastal development permit from the California Coastal Commission prior to the issuance of a building permit.
5. A Coastal Hazard Report and Sea Level Rise Analysis was prepared by PMA Consulting, Inc. for the project. The report concludes that with the reinforced bulkhead, cantilevered deck and raised curb to 10 feet NAVD88, the project will not be adversely impacted by potential coastal hazards, including sea level rise over the next 75 years. The need for a new shoreline-protective device is not anticipated over the economic life of the proposed development. Furthermore, if the bulkhead is found to not adequately protect the development for the actual sea level rise over the next 75 to 100 years, the bulkhead assembly allows an increase in height without further seaward encroachment. The bay water elevation (currently maximum 7.20 feet NAVD88) is estimated to rise to 8.70 feet NAVD88 based on the minimum estimates for sea level rise provided by the National Research Council 2012 Sea Level Rise (SLR) estimates. Therefore, the new concrete curb at the cantilevered deck atop the bulkhead at a height of 10 feet NAVD88 is sufficient to protect the project site.
6. Pursuant to NBMC Section 21.30.030(C)(3)(i)(iv), the property owner will be required to enter into an agreement with the City waiving any potential right to protection to address situations in the future in which the development is threatened with damage or destruction by coastal hazards (e.g., waves, erosion, and sea level rise). The property owner will also be required to acknowledge any hazards present at the site and unconditionally waive any claim to damage or liability against the decision authority, consistent with NBMC Section 21.30.015(D)(3)(c). Both requirements are included as conditions of approval that will need to be satisfied prior to the issuance of building permits for construction.
7. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.

8. The applicant provided a Construction Pollution Prevention Plan (CPPP) pursuant to Section 21.35.030 of the Municipal Code, to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived by construction chemicals and materials. A CPPP was reviewed and approved by the City's Engineer Geologist. Construction plans and activities will be required to adhere to the approved CPPP.
9. Pursuant to Municipal Code Section 21.35.050, due to the proximity of the development to the shoreline and the development containing more than 75 percent of impervious surface area, a Water Quality and Hydrology Plan (WQHP) is required. A WQHP prepared by Commercial Development Resources, dated October 20, 2017, has been reviewed and approved by the City's Engineer Geologist. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of an LID approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs.
10. Proposed landscaping complies with Implementation Plan Section 21.30.075. A condition of approval is included that requires drought-tolerant species. Prior to issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.

Finding:

- B. Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.*

Fact in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline; the project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities.
2. Vertical access to the bay front is available approximately 150 feet east of the site at the terminus of 13<sup>th</sup> Street and the Bay where there is a small public beach with access to the water. There is an additional vertical access to the bay front approximately 280 feet west of the site at the terminus of 14<sup>th</sup> Street and the Bay where there is a small public beach with access to the water.
3. The closest Public Viewpoint is located near Veterans Memorial Park and Marina Park, approximately 800 feet from the property. The proposed residence is not located near Coastal View Roads, as designated in the Coastal Land Use Plan. Due to the distance of the proposed development from the Public Viewpoint and the project's compliance with height, setbacks, the project will not impact coastal views.

SECTION 4. DECISION.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2017-098, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

**PASSED, APPROVED, AND ADOPTED THIS 27<sup>TH</sup> DAY OF FEBRUARY, 2018**



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Patrick J. Alford, Zoning Administrator

**EXHIBIT "A"****CONDITIONS OF APPROVAL**

*(Project-specific conditions of approval are italicized)*

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. Prior to the issuance of a building permit, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices including the repair and maintenance, enhancement, reinforcement, or any other activity affecting the bulkhead, that results in any encroachment seaward of the authorized footprint of the bulkhead or other shoreline protective device. The agreement shall be binding against the property owners and successors and assigns.
3. Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of development.
4. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers.
5. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
6. The cantilevered deck shall comply with the design conditions of Municipal Code Sections 21.30 C.050.G.5. and 17.35.020 C.
7. *Prior to the issuance of a building permit and harbor permit from the City for the proposed cantilevered deck, the applicant shall apply for and obtain approval of a coastal development permit from the California Coastal Commission.*
8. *Prior to the issuance of a building permit for the proposed residence, the applicant shall apply for and obtain approval of a coastal development permit from the California Coastal*

*Commission for the proposed cantilevered deck with integrated concrete, unless plans are redesigned to eliminate the cantilevered deck and incorporate a bulkhead cap at the existing bulkhead wall to the City's Harbor Design Criteria standard of 9.82 feet NAVD88 (10.00 feet MLLW).*

9. Best Management Practices (BMP's) and Good Housekeeping Practices (GHP's) shall be implemented prior to and throughout the duration of construction activity as designated in the Construction Pollution Prevention Plan (CPPP).
10. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
11. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stock piles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
12. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
13. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
14. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
15. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
16. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
17. Prior to issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
18. Prior to issuance of a building permit, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Coastal Development file. The plans shall be identical to those approved by all City departments

for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Coastal Development Permit.

19. Prior to issuance of a building permits, the approved CPPP and WQHP shall be submitted with the Building Permit plans. Implementation shall be in compliance with the approved CPPP and WQHP and any changes could require separate review and approval by the Building Division.
20. Prior to the issuance of building permits, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species and water efficient irrigation design. The plans shall be approved by the Planning Division.
21. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
22. Prior to the issuance of building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
23. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
24. This Coastal Development Permit No. CD2017-098 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
25. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Wong Residence including, but not limited to, Coastal Development Permit No. CD2017-098 (PA2017-229). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages, which City incurs in enforcing the indemnification provisions set forth in this

condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.



## RESOLUTION NO. ZA2018-019

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2018-013 FOR REMODELING AND THE CONSTRUCTION OF A NEW ROOF DECK AND STAIR ENCLOSURE TO AN EXISTING DUPLEX LOCATED AT 309 33<sup>RD</sup> STREET (PA2018-035)**

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by John and Carol Wortsman, with respect to property located at 309 33<sup>rd</sup> Street, and legally described as Lot 20 of Block 233, requesting approval of a Coastal Development Permit.
2. The applicant proposes remodeling and construction a new roof deck and stair enclosure for an existing duplex. The proposed development also includes additional appurtenances such as fences, patios, and hardscape.
3. The subject property is located within the Two-Unit Residential (R-2) Zoning District and the General Plan Land Use Element category is Two-Unit Residential (RT).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Two Unit Residential – (30.0 - 39.9 DU/AC) (RT-E) and the Coastal Zoning District is Single-Unit Residential (R-2).
5. A public hearing was held on February 27, 2018, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place, and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

#### SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations (Section 15301, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Existing Facilities), because it has no potential to have a significant effect on the environment.
2. Class 1 includes additions to existing structures. The proposed project is the addition of a new roof deck and stair enclosure to an existing duplex located in the R-2 Coastal Zoning District.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015 (Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

*A. Conforms to all applicable sections of the certified Local Coastal Program.*

Facts in Support of Finding:

1. The property is currently developed with a 2,614-square-foot duplex with an attached 400-square-foot garage. The applicant requests to remodel the interior of the duplex, and add a new roof deck and stair enclosure. The height of the duplex will increase from 20 feet and 1 inch to 28 feet, which is an increase of approximately 39 percent.
2. The property is considered nonconforming due to parking because only two parking spaces in a garage are provided, where the Zoning Code and Local Coastal Program requires one space in a garage and one space covered or in a garage per dwelling unit. The Zoning Code and Local Coastal Program allows for additions up to a maximum of 10 percent of the existing floor area of the structure within a 10 year period. No increase of floor area is proposed.
3. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, and height.
  - a. The maximum floor area limitation is 3,040 square feet and the existing floor area is 3,014 square feet. No additional floor area is proposed.
  - b. The proposed development complies with the required setbacks, which are 10 feet along the property line abutting 33<sup>rd</sup> Street, 3 feet along each side property line, and 5 feet along the rear property line.
  - c. The highest guardrail/parapet is 23 feet 9 inches from established grade and the highest ridge is 28 feet from established grade. The proposed development complies with all height requirements.
4. The neighborhood is predominantly developed with two- and three-story single-family residences and duplexes. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development.
5. The development is set back approximately 215 feet from the nearest bulkhead. Due to the large distance from coastal waters, a Water Quality Management Plan (WQMP) and a Construction Pollution Prevention Plan (CPPP) are not required.
6. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of

building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.

Finding:

*B. Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.*

Fact in Support of Finding:

1. The project site is not located between the nearest public road and the sea or shoreline and the proposed project will not affect public recreation, access or views.

SECTION 4. DECISION.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2018-013, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

**PASSED, APPROVED, AND ADOPTED THIS 27<sup>TH</sup> DAY OF FEBRUARY, 2018.**



Patrick J. Alford, Zoning Administrator

**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan, floor plans, and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new Coastal Development Permit.
3. Coastal Development Permit No. CD2018-013 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
4. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
5. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
6. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
7. Prior to issuance of the building permits, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
8. Prior to issuance of building permits, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Coastal Development file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Coastal Development Permit.
9. Prior to the issuance of building permits, the applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.
10. Prior to the issuance of building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.

11. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner, or the leasing agent.
12. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 21 Planning and Zoning of the Newport Beach Municipal Code.
13. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Wortsman Residence Coastal Development Permit including, but not limited to, Coastal Development Permit No. CD2018-013 (PA2018-035). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

## RESOLUTION NO. ZA2018-020

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2017-085 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW DUPLEX WITH ATTACHED GARAGE AND TWO COVERED CARPORTS LOCATED AT 312 35<sup>TH</sup> STREET (PA2017-199)**

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Bill Caskey and Associates, with respect to property located at 312 35<sup>th</sup> Street, requesting approval of a coastal development permit.
2. The lot at 312 35<sup>th</sup> Street is legally described as Lot 1, Block 234 of Lake Section, in the City of Newport Beach, County of Orange, State of California.
3. The applicant proposes to demolish an existing single-family residence and construct a new, 2,673 square-foot, three-story duplex, with a 367-square-foot attached garage and two covered carports. The design includes hardscape, walls, landscaping, and drainage facilities.
4. The subject property is designated RT (Two-Unit Residential) by the General Plan Land Use Element and is located within the R-2 (Two-Unit Residential) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RT-E (Two-Unit Residential) – 30.0-39.9 DU/AC and it is located within the R-2 (Two- Unit Residential) Coastal Zone District.
6. A public hearing was held on February 27, 2018, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

#### SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations Section 15303, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New Construction or Conversion of Small Structures, because it has no potential to have a significant effect on the environment.
2. Class 3 exempts the demolition of up to three single-family residences and construction of a duplex. The proposed project consists of the demolition of one single-family

residence and the construction of a new 2,673-square-foot duplex with attached 367 square foot garage and two covered carports.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015 (Coastal Development Permits, Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

#### Finding:

A. *Conforms to all applicable sections of the certified Local Coastal Program.*

#### Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
  - a. The maximum floor area limitation is 3,040 square feet and the proposed floor area is 3,040 square feet.
  - b. The proposed development provides the minimum required setbacks, which are 10 feet along the front property line abutting 35<sup>th</sup> Street, 3 feet along each side property line, and 5 feet along the rear property line abutting the alley.
  - c. The highest guardrail is less than 24 feet from established and the highest ridge is no more than 29 feet from established grade, which comply with the maximum height requirements.
  - d. The project includes garage parking for a total of two vehicles in single-car garages as well as two covered carport spaces, complying with the minimum four-car parking requirement for duplexes.
2. The neighborhood is predominantly developed with two- and three-story, single-family and two-family residences. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development.
3. The property is not located on the shoreline. The development is separated from the bayfront by Marcus Avenue and a row of residences. The subject site is approximately 150 feet from the bay and is not protected by a bulkhead. The finished floor elevation of the proposed dwelling is 9.00 feet (NAVD 88), which complies with the minimum 9.00 feet (NAVD88) elevation standard.
4. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC)

and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.

5. The property is located within 200 feet of coastal waters. The project design addresses water quality with a construction erosion control plan and a post construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event run-off on-site. Any water not retained on-site is directed to the City's storm drain system.
6. Pursuant to Municipal Code Section 21.35.050, due to the proximity of the development to the shoreline and the development containing more than 75 percent of impervious surface area, a Water Quality and Hydrology Plan (WQHP) is required. A WQHP prepared by DNZ Engineering, dated September 26, 2017 (revised January 10, 2018), has been reviewed and approved by the City's Engineer Geologist. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of an LID approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs.
7. Proposed landscaping complies with Implementation Plan Section 21.30.075. A condition of approval is included that requires drought-tolerant species. Prior to issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.

Finding:

- B. *Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.*

Fact in Support of Finding:

1. The project site is not located between the nearest public road and the sea or shoreline. The nearest bay/channel access is located along Lake Avenue and 38th Street. The project complies with applicable development standards such as setbacks and no development is proposed offsite. Thus, the project will not affect the public's ability to gain access to, or use the coast and nearby recreational facilities.
2. The nearest coastal view point is located more than 700 feet north of the subject property at Newport Island Park. Several blocks of residences and a channel separate the two sites. The proposed residence is not located near coastal view roads, as designated in the Coastal Land Use Plan. Due to the distance of the proposed development from the public viewpoint and coastal view roads, as well as the project's compliance with height, setbacks, the project will not impact coastal views.



SECTION 4. DECISION.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2017-085, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

**PASSED, APPROVED, AND ADOPTED THIS 27<sup>TH</sup> DAY OF FEBRUARY, 2018.**



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Patrick J. Alford, Zoning Administrator

**EXHIBIT "A"****CONDITIONS OF APPROVAL**

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers.
3. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
4. This Coastal Development Permit does not authorize any development seaward of the private property.
5. Best Management Practices (BMP's) and Good Housekeeping Practices (GHP's) shall be implemented prior to and throughout the duration of construction activity as designated in the Drainage and Erosion Control Plans.
6. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
7. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stock piles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
8. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
9. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
10. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
11. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.

12. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
13. Prior to issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
14. Prior to issuance of a building permit, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Coastal Development file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Coastal Development Permit.
15. Prior to issuance of a building permit, the approved WQMP shall be submitted with the Building Permit plans. Implementation shall be in compliance with the approved WQMP and any changes could require separate review and approval by the Building Division.
16. Prior to the issuance of a building permit, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species and water efficient irrigation design. The plans shall be approved by the Planning Division.
17. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
18. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
19. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
20. This Coastal Development Permit No. CD2017-085 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.

21. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Patterson Residence including, but not limited to, Coastal Development Permit No. CD2017-085 (PA2017-199). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

## RESOLUTION NO. ZA2018-021

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2017-074 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW SINGLE-FAMILY RESIDENCE AND ATTACHED 3-CAR GARAGE LOCATED AT 2123 EAST BALBOA BOULEVARD (PA2017-178)**

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Walt Bushman (“Applicant”), on behalf of Jim Cefalia (“Owner”), with respect to property located at 2123 East Balboa Boulevard, requesting approval of a coastal development permit.
2. The lot at 2123 East Balboa Boulevard is legally described as Lot 61 of Tract 948.
3. The Applicant requests a coastal development permit (CDP) to allow the demolition of an existing single-family residence the construction of a new 3,830 square foot, 2-story home and attached 3-car garage. The project also includes landscaping, hardscape and drainage. The proposed residence complies with all applicable development standards including height, setbacks, and floor area limits. No deviations are requested.
4. The subject property is designated RS-D (Single-Unit Residential Detached) by the General Plan Land Use Element and is located within the R-1 (Single-Unit Residential) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RSD-C (Single-Unit Residential Detached) – (10.0-19.9 DU/AC) and it is located within the R-1 (Single-Unit Residential) Coastal Zone District.
6. A public hearing was held on February 27, 2018, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

#### SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations Section 15303, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New Construction or Conversion of Small Structures), because it has no potential to have a significant effect on the environment.

2. Class 3 exempts the demolition of up to three single-family residences and additions of up to 10,000 square feet to existing structures. The proposed project consists of the demolition of one single-family residence and the construction of a new 3,288-square-foot single-family residence and attached 542-square-foot 3-car garage.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015 (Coastal Development Permits, Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

#### Finding:

- A. *Conforms to all applicable sections of the certified Local Coastal Program.*

#### Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
  - a. The total proposed floor area, including the residence and enclosed parking, is 3,830 square feet, which complies with the maximum allowable floor area limit of 4,615 square feet.
  - b. The proposed development provides the minimum required setbacks, which are six feet along the front property line abutting East Balboa Boulevard, three feet along each side property line, and zero feet along the rear property line abutting the 20-foot wide alley.
  - c. The highest guardrail is less than 24 feet from established grade (10.9 feet North American Vertical Datum of 1988) and the highest ridge is 29 feet from established grade, which complies with the maximum height limitation.
  - d. The project includes garage parking for a total of three vehicles, complying with the minimum two-car garage parking requirement for single-family residences with less than 4,000 square feet of habitable floor area.
2. The neighborhood is predominantly developed with two- and three-story, single-family residences. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development.
3. The property is located approximately 100 feet from Newport Harbor and is separated from the harbor by East Balboa Boulevard and a public beach. The project site is not protected by a bulkhead. The finished floor elevation of the proposed dwelling is 12.04 feet (NAVD88), which complies with the minimum 9 feet (NAVD88) elevation standard.

4. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and the CBC prior to building permit issuance.
5. Pursuant to Municipal Code Section 21.35.050 (Water Quality and Hydrology Plan), due to the proximity of the development to the shoreline and the development containing more than 75 percent of impervious surface area, a Water Quality and Hydrology Plan (WQHP) was prepared by AQX Engineering. The WQHP has been reviewed and approved by the City's Engineer Geologist. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for Best Management Practices (BMPs), use of an LID approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs. Construction plans will be reviewed for compliance with the approved WQHP prior to building permit issuance.
6. The project design addresses water quality with a construction erosion control plan that outlines temporary BMPs to be implemented during construction to minimize erosion and sedimentation and to minimize pollution of runoff derived by construction chemicals and materials. No water quality impacts to coastal waters are anticipated.

Finding:

- B. Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.*

Fact in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline; however, the project will not affect public recreation, access, or views and will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities. The residential lot does not currently provide nor inhibit public coastal access.
2. Vertical access points are located at street-ends throughout Balboa Peninsula. The nearest public access is provided by the public beach directly across East Balboa Boulevard, approximately 60 feet bayward. Additional public access to the bay and beach is located approximately 1,200 feet south of the site via M Street and Channel Road.
3. The property is not located near Public View Points or Coastal View Roads, as designated in the Coastal Land Use Plan, and will not impact public coastal views. The nearest Public View Point is located at the West Jetty View Park at Peninsula Point, approximately 1,000 feet to the southeast of the project site. Due to the distance of the proposed development from the Public View Point and the project's compliance with height and setbacks, views from this View Point or views of the ocean, beach and harbor from other public spaces will

not be impacted by the proposed development. There is no Coastal View Road (segment) on the Balboa Peninsula.

4. The proposed project is located entirely on private property and there will be no reduction in on-street parking spaces.

**SECTION 4. DECISION.**

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2017-074, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

**PASSED, APPROVED, AND ADOPTED THIS 27<sup>TH</sup> DAY OF FEBRUARY, 2018.**



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Patrick J. Alford, Zoning Administrator



**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers.
3. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented prior to and throughout the duration of construction activity.
4. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
5. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stockpiles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
6. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
7. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
8. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
9. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
10. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.

11. Prior to issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
12. Prior to issuance of a building permit, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Coastal Development file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Coastal Development Permit.
13. Prior to the issuance of building permits, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species and water efficient irrigation design. The plans shall be approved by the Planning Division.
14. Prior to the issuance of a building permit, the Applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
15. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
16. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
17. Coastal Development Permit No. CD2017-074 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
18. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Cefalia Residence including, but not limited to, Coastal Development Permit No. CD2017-074 (PA2017-178). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such

proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

## RESOLUTION NO. ZA2018-022

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2017-024 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW SINGLE-FAMILY RESIDENCE AND ATTACHED 2-CAR GARAGE LOCATED AT 111 8TH STREET (PA2017-058)**

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Chris Bengtson, (“Applicant” and “Owner”), with respect to property located at 111 8th Street, and legally described as Lot 1 of Block 7 of the East Newport Tract, requesting approval of a Coastal Development Permit.
2. The applicant proposes to demolish a one-story, single-family residence and garage and construct a new three-story, 3,253-square-foot, single-family residence and attached garage. The project also includes hardscape, drainage, and landscaping. The project complies with all applicable development standards. No deviations are requested.
3. The subject property is designated RS-D (Single-Unit Residential Detached) by the General Plan Land Use Element and is located within the R-1 (Single-Unit Residential) Zoning District.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RSD-C (Single-Unit Residential Detached) – (10.0-19.9 DU/AC) and it is located within the R-1 (Single-Unit Residential) Coastal Zone District.
5. A public hearing was held on February 27, 2018, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

#### SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations Section 15303, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New Construction or Conversion of Small Structures).
2. Class 3 exempts the demolition of up to three single-family residences and additions of up to 10,000 square feet to existing structures. The proposed project consists of the demolition of one single-family residence and the construction of a new 2,792-square-foot, single-family residence and 461-square-foot, 2-car garage.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015 (Coastal Development Permits, Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

#### Finding:

A. *Conforms to all applicable sections of the certified Local Coastal Program.*

#### Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
  - a. The maximum floor area limitation is 3,912 square feet and the proposed floor area is 3,253 square feet.
  - b. The proposed development provides the minimum required setbacks, which are 10 feet along the front property line, 4 feet along each side property line, 2.5 feet along the rear property line for the second floor and 10-feet along the rear property line for the first floor.
  - c. The highest guardrail is no more than 24 feet from established grade (9.805 feet NAVD88) and the highest ridge is no more than 29 feet from established grade, which complies with the maximum height requirements.
  - d. The project includes garage parking for a total of two vehicles, complying with the minimum two-car garage parking requirement for single-family residences with less than 4,000 square feet of habitable floor area.
2. The neighborhood is predominantly developed with one-, two-, and three-story single-family residences. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development.
3. The proposed development is not located on the shoreline and is over 100 feet from the nearest beach. The proposed finished floor is 10.5 feet (NAVD 88) which is higher than the 9.00 feet (NAVD 88) standard. Impacts from wave run-up and sea-level rise are not anticipated.
4. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation

identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.

5. Project design addresses water quality with a construction erosion control plan and a post construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event run-off on-site. Any water not retained on-site is directed to the City's storm drain system.
6. Proposed landscaping complies with the Implementation Plan Section 21.30.075. Final landscape plans will be reviewed to verify invasive species are not planted.
7. The property is not located near Public Viewpoints or Coastal View Roads, as designated in the Coastal Land Use Plan, and will not impact public coastal views. There is no Coastal View Road (segment) in Balboa Peninsula. Public views of the beach and the sea are available on 8<sup>th</sup> Street and from the West Ocean Front boardwalk.

Finding:

- B. Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.*

Fact in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline (as defined by the Coastal Commission). Re-development will not alter or affect existing public recreation, access, or views. Access to the beach and the West Ocean Front boardwalk is available at the terminus of 8th Street.
2. The proposed project is located entirely on private property and there will be no reduction in on-street parking spaces.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2017-024, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the

City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

**PASSED, APPROVED, AND ADOPTED THIS 27<sup>TH</sup> DAY OF FEBRUARY, 2018.**



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Patrick J. Alford, Zoning Administrator

**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers.
3. Best Management Practices (BMP's) and Good Housekeeping Practices (GHP's) shall be implemented prior to and throughout the duration of construction activity.
4. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
5. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stockpiles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
6. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
7. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
8. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
9. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
10. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious



to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.

11. Prior to issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
12. Prior to issuance of a building permit, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Coastal Development file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Coastal Development Permit.
13. Prior to the issuance of building permits, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species and water efficient irrigation design. The plans shall be approved by the Planning Division.
14. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
15. Prior to the issuance of a building permit, the Applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
16. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
17. Coastal Development Permit No. CD2017-024 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
18. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Bengtson Residence Coastal Development Permit including, but not limited to, Coastal Development Permit No. CD2017-024 (PA2017-058). This indemnification shall

include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

## RESOLUTION NO. ZA2018-024

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2017-065 TO DEMOLISH AN EXISTING RESIDENTIAL DUPLEX AND CONSTRUCT A NEW THREE-STORY SINGLE-FAMILY RESIDENCE WITH AN ATTACHED TWO-CAR GARAGE AT 6310 WEST OCEAN FRONT (PA2017-154)**

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Ron Ritner of Ritner Group, Inc., (“Applicant”), on behalf of Paul and Carol Altieri (“Owners”), with respect to property located at 6310 West Ocean Front, requesting approval of a coastal development permit.
2. The property at 6310 West Ocean Front is legally described as Lot 6, Block C, Seashore Colony Tract, in the City of Newport Beach, County of Orange, State of California.
3. The Applicant proposes to demolish an existing residential duplex and construct a new three-story, 2,475-square-foot, single-family residence with an attached 519-square-foot, two-car garage. The project will include hardscape and subsurface drainage facilities within the confines of private property. The design complies with all applicable development standards and no deviations are requested.
4. The subject property is designated RT (Two-Unit Residential) by the General Plan Land Use Element and is located within the R-2 (Two-Family Residential) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RT-E (Two Unit Residential – 30.0-39.9 DU/AC) and the property is located within the R-2 (Two Unit Residential) Coastal Zone District.
6. A public hearing was held on February 27, 2018, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place, and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

#### SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations Section 15303, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New Construction or Conversion of Small Structures), because it has no potential to have a significant effect on the environment.

2. Class 3 exempts the demolition, construction and location of limited numbers of new, small facilities or structures including one single-family residence in a residential zone. The proposed project consists of the demolition of an existing two-story duplex and construction of a new three-story 2,475-square-foot, single-family residence with an attached 519-square-foot, two-car garage in the R-2 Zoning District.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015 (Coastal Development Permits, Findings and Decision) of the Newport Beach Municipal Code (NBMC), the following findings and facts in support of such findings are set forth:

#### Finding:

- A. *Conforms to all applicable sections of the certified Local Coastal Program.*

#### Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
  - a. The total proposed floor area, including the residence and enclosed parking, is 2,994 square feet, which complies with the maximum allowable floor area limit of 3,120 square feet.
  - b. The proposed development will provide the minimum required setbacks, which are five (5) feet along the front and rear property lines, and three (3) feet along each side property line.
  - c. The highest guardrail is no more than 24 feet and the highest roof ridge is no more than 29 feet, measured from the established grade level of 14.53 feet (NAVD88), which complies with the maximum height limitation.
  - d. The project includes enclosed garage parking for two vehicles, in compliance with the minimum parking requirement for single-family residences with less than 4,000 square feet of habitable floor area.
2. The neighborhood is predominantly developed with two- and three-story residences. The proposed design, bulk, and scale of the development will be consistent with the existing neighborhood pattern of development and expected future development.
3. The development fronts a sandy beach area of more than 200 feet in width. The project site is not protected by a bulkhead or any other shoreline protective device. The finished first floor elevation of the proposed dwelling is 15.00 feet (NAVD88), which exceeds the minimum required 9.00-foot (NAVD88) elevation standard. The finished garage slab elevation is 14.00 feet (NAVD 88).
4. A project-specific Coastal Hazard and Wave Runup Study was prepared by William Simpson & Associates, Inc., dated July 14, 2017. The report concludes that flooding,

wave runup and erosion will not significantly impact this property over the proposed life of the development. There is therefore no anticipated need for a shoreline protection device over the life of the proposed development

5. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.
6. The project design addresses water quality with a construction erosion control plan that outlines temporary Best Management Practices (BMPs) to be implemented during construction to minimize erosion and sedimentation, and to minimize pollution of runoff derived by construction chemicals and materials. No water quality impacts to coastal waters are anticipated based upon the location and elevation of the property.
7. Pursuant to Municipal Code Section 21.35.050, due to the proximity of the development to the shoreline and the development containing more than 75 percent of impervious surface area, a Water Quality and Hydrology Plan (WQHP) is required. A WQHP prepared by William Simpson & Associates, Inc., dated July 14, 2017, has been reviewed and approved by the City's Engineer Geologist. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of a low-impact development (LID) approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs.
8. The proposed development includes a post-construction drainage system with drainage and percolation features designed to retain dry weather and minor rain event run-off on-site. Any water not retained on-site will be directed to the City's storm drain system.
9. New landscaping will be verified for compliance with NBMC Section 21.30.075 (Landscaping). Condition of Approval No. 13 is included to require drought-tolerant, and prohibits invasive, species. Prior to issuance of the building permits, the final landscape plans will be reviewed to verify invasive species are not planted.
10. The property is not located near designated public viewpoints or coastal view roads and will not impact public coastal views.

Finding:

- B. *Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.*

Fact in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline; however, the project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities.
2. The residential lot does not currently provide nor does it inhibit public coastal access. Lateral beach access is provided by the public beach seaward of the project site. Vertical access points are located at street-ends throughout the neighborhood, including Cedar Street, immediately west of the project site.
3. There are no designated public viewpoints or coastal view roads near the project site, per the Coastal Land Use Plan. Due to the distance of the proposed development from public viewpoints and the project's compliance with all applicable development standards, including height and setbacks, the project will not significantly impact existing coastal views.

## SECTION 4. DECISION.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2017-065, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

**PASSED, APPROVED, AND ADOPTED THIS 27<sup>TH</sup> DAY OF FEBRUARY, 2018.**

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Patrick J. Alford, Zoning Administrator

**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. Prior to the issuance of a building permit, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices including the repair and maintenance, enhancement, reinforcement, or any other activity affecting the bulkhead, that results in any encroachment seaward of the authorized footprint of the bulkhead or other shoreline protective device. The agreement shall be binding against the property owners and successors and assigns
3. Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of development.
4. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, wetland or their buffers.
5. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented prior to and throughout the duration of construction activity as designated in the Construction Pollution Prevention Plan (CPPP).
6. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
7. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stock piles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.

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8. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
  9. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
  10. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
  11. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
  12. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
  13. Prior to issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
  14. Prior to issuance of a building permit, the Applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Coastal Development Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Coastal Development Permit.
  15. Prior to the issuance of a building permit, the Applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species, and water efficient irrigation design. The plans shall be approved by the Planning Division.
  16. Prior to the issuance of a building permit, the Applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
  17. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance



18. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
19. Coastal Development Permit No. CD2017-065 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
20. To the fullest extent permitted by law, Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Altieri Residence including, but not limited to, Coastal Development Permit No. CD2017-065 (PA2017-154). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by Applicant, City, and/or the parties initiating or bringing such proceeding. The Applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. The Applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

## RESOLUTION NO. ZA2018-025

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2017-102 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW TWO-STORY, SINGLE-FAMILY RESIDENCE AND TWO ATTACHED TWO-CAR GARAGES AT 501 VIA LIDO SOUD (PA2017-239)**

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Brandon Architects (“Applicant”), on behalf of John and Julie Guida (“Owners”), with respect to property located at 501 Via Lido Soud, requesting approval of a coastal development permit.
2. The property is legally described as Lots 456 and 457 of Tract 907.
3. The applicant proposed the demolition of an existing two-story, 4,558-square-foot, single-family residence and construction of a new two-story 6,580-square-foot, single-family residence with two attached two-car garages. The project includes landscape, hardscape and subsurface drainage facilities. The site is protected by an existing private bulkhead that has been inspected, is in generally good condition, and will be reinforced in conjunction with the proposed construction. The design complies with all applicable development standards and no deviations are requested.
4. The subject property is designated RS-D (Single-Unit Residential Detached) by the General Plan Land Use Element and is located within the R-1 (Single-Unit Residential) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RSD-C (Single-Unit Residential Detached - (10.0 - 19.9 DU/AC) and the property is located within the R-1 (Single-Unit Residential) Coastal Zone District.
6. A public hearing was held on February 27, 2018, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

#### SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations Section 15303, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New Construction or

Conversion of Small Structures), because it has no potential to have a significant effect on the environment.

2. Class 3 exempts the construction and location of limited numbers of new, small facilities or structures including one single-family residence in a residential zone. The proposed project consists of the demolition of an existing 4,558-square-foot, single-family residence and construction of a new two-story, 6,786-square-foot, single-family residence with two attached two-car garages in the R-1 Zoning District.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015 (Coastal Development Permits, Findings and Decision) of the Newport Beach Municipal Code (NBMC), the following findings and facts in support of such findings are set forth:

#### Finding:

- A. *Conforms to all applicable sections of the certified Local Coastal Program.*

#### Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
  - a. The maximum floor area limitation is 11,282 square feet and the proposed floor area is 7,842 square feet.
  - b. The proposed development will provide the minimum required setbacks, which are four (4) feet along the front property line abutting Via Lido Soud, four (4) feet along each side property line, and ten (10) feet along the front property line abutting the waterway.
  - c. The highest guardrail is no more than 24 feet and the highest roof ridge is no more than 29 feet, measured from the established grade level of 11.54 feet (NAVD88), which complies with the maximum height limitation.
  - d. The project includes enclosed garage parking for four vehicles, which exceeds the minimum parking requirement for single-family residences with more than 4,000 square feet of habitable floor area.
2. The neighborhood is predominantly developed with two-story, single-family residences. The proposed design, bulk, and scale of the development will be consistent with the existing neighborhood pattern of development and expected future development.
3. The existing development includes a private seawall/bulkhead along the waterway. A Bulkhead Condition Report prepared by PMA Consulting, Inc., dated October 21, 2017, concludes that the cast-in-place wall is in generally good condition. In order to protect

the proposed new development, the report recommends that the wall be reinforced and repaired, and provides specific recommendations on how this should be accomplished. Once the wall has been reinforced and repaired, it is not anticipated that the wall will need further repair or replacement in the next 75 to 100 years.

4. Pursuant to NBMC Section 21.30.030(C)(3)(i)(iv), the property owner will be required to enter into an agreement with the City waiving any potential right to protection to address situations in the future in which the development is threatened with damage or destruction by coastal hazards (e.g., waves, erosion, and sea level rise). The property owner will also be required to acknowledge any hazards present at the site and unconditionally waive any claim to damage or liability against the decision authority, consistent with NBMC Section 21.30.015(D)(3)(c). Both requirements are included as conditions of approval that will need to be satisfied prior to the issuance of building permits for construction.
5. A project-specific Coastal Hazards Analysis Report was prepared by PMA Consulting, Inc., dated October 21, 2017. The report concludes that flooding, wave run up and erosion will not significantly impact this property over the life of the proposed development, provided the existing seawall is reinforced and repaired as recommended.
6. Pursuant to NBMC Section 21.35.050 (Water Quality and Hydrology Plan), because of the project site's proximity to coastal waters, a Water Quality and Hydrology Plan (WQHP) was prepared by Forkert Engineering & Surveying, Inc., dated November 9, 2017. The WQHP has been reviewed and approved by the City's Engineer Geologist. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of a low-impact development (LID) approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs. Construction plans will be reviewed for compliance with the approved WQHP prior to building permit issuance.
7. The project design addresses water quality with a construction erosion control plan and a post construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event run-off on-site. Any water not retained on-site is directed to the City's storm drain system.
8. New landscaping will be verified for compliance with NBMC Section 21.30.075. A condition of approval is included that requires drought-tolerant, and prohibits invasive, species (Condition of Approval No. 17). Prior to issuance of the building permits, the final landscape plans will be reviewed to verify invasive species are not planted.
9. The property is not located near designated public viewpoints or coastal view roads and will not impact public coastal views.

Finding:

- B. *Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.*

Fact in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline; however, the project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities.
2. The residential lot does not currently provide nor does it inhibit public coastal access. The proposed scope of work involves the removal and replacement of an existing single-family residence with a new single-family residence. Development will occur within the confines of private property, and existing coastal access conditions will not be affected. Coastal access is currently provided and will continue to be provided by adjacent small public beach areas with access to and from the water.
3. There are no designated public viewpoints or coastal view roads near the project site, per the Coastal Land Use Plan. Due to the distance of the proposed development from public view points and the project's compliance with all applicable development standards, including height and setbacks, the project will not significantly impact existing coastal views.

## SECTION 4. DECISION.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2017-102, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

**PASSED, APPROVED, AND ADOPTED THIS 27<sup>TH</sup> DAY OF FEBRUARY, 2018.**

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Patrick J. Alford, Zoning Administrator

**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. Prior to the issuance of a building permit, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices including the repair and maintenance, enhancement, reinforcement, or any other activity affecting the bulkhead, that results in any encroachment seaward of the authorized footprint of the bulkhead or other shoreline protective device. The agreement shall be binding against the property owners and successors and assigns.
3. Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of development.
4. The existing private seawall/bulkhead shall be reinforced and repaired, in keeping with the recommendations provided in the Bulkhead Condition Report prepared by PMA Consulting, Inc., dated October 21, 2017.
5. Prior to issuance of building permits, the Applicant or Owners shall apply for and obtain a certificate of compliance to formally recognize the two underlying legal lots as a single building site.
6. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, wetland or their buffers.
7. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented prior to and throughout the duration of construction activity as designated in the Construction Pollution Prevention Plan (CPPP).
8. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle

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maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.

9. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stock piles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
10. Protective construction fencing shall be appropriately placed to contain debris and construction activity onsite, and avoid any impact to the adjacent public beach area.
11. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
12. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
13. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
14. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this coastal development permit.
15. This coastal development permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
16. Prior to issuance of the building permits, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
17. Prior to issuance of building permits, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the coastal development permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this coastal development permit.
18. Prior to issuance of the building permits, a CPPP shall be submitted with the Building Permit plans. Implementation shall be in compliance with the approved CPPP and any changes could require separate review and approval by the Building Division.

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19. Prior to the issuance of building permits, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species and water efficient irrigation design. The plans shall be approved by the Planning Division.
  20. Prior to the issuance of building permits, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
  21. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
  22. Coastal Development Permit No. CD2017-102 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
  23. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Guida Residence including, but not limited to, Coastal Development Permit No. CD2017-102 (PA2017-239). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.



## RESOLUTION NO. ZA2018-026

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2017-105 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW THREE-STORY SINGLE-FAMILY RESIDENCE WITH AN ATTACHED THREE-CAR GARAGE AT 41 BEACON BAY (PA2017-247)**

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Jeff Benson of BD&Arch (“Applicant”), on behalf of Michael Todd (“Owner”), with respect to property located at 41 Beacon Bay, requesting approval of a coastal development permit.
2. The property is legally described as Lot 41, in the City of Newport Beach, County of Orange, State of California, as shown on the map filed in Book 9, pages 42 and 43 of Record of Surveys, in the office of the County Recorder of said County.
3. The Applicant proposes to demolish an existing single-family residence and construct a new three-story, 4,596-square-foot, single-family residence with an attached 800-square-foot, three-car garage. The project includes landscape, hardscape, and subsurface drainage facilities all located within the confines of the private property. The design complies with all applicable development standards and no deviations are requested.
4. The subject property is designated RT (Two-Unit Residential) by the General Plan Land Use Element and is located within the R-2 (Two-Unit Residential) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RT-C (Two-Unit Residential, 10.0 – 19.9 DU/AC) and the property is located within the R-2 (Two-Unit Residential) Coastal Zone District.
6. A public hearing was held on February 27, 2018, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place, and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

#### SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations Section 15303, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New Construction or

Conversion of Small Structures), because it has no potential to have a significant effect on the environment.

2. Class 3 exempts the demolition and construction of limited numbers of new, small facilities or structures including one single-family residence in a residential zone. The proposed project consists of the demolition of an existing single-family residence and the construction of a new 4,596-square-foot single-family residence with an attached 800-square-foot, three-car garage in the R-1 Zoning District.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015 (Coastal Development Permits, Findings and Decision) of the Newport Beach Municipal Code (NBMC), the following findings and facts in support of such findings are set forth:

#### Finding:

- A. *Conforms to all applicable sections of the certified Local Coastal Program.*

#### Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
  - A. The total proposed floor area, including the residence and enclosed parking, is 5,396 square feet, which complies with the maximum allowable floor area limit of 6,762 square feet.
  - B. The proposed development will provide the minimum required setbacks, which are six (6) feet along the front property line at Cove Road, four (4) feet along each side property line, and five (5) feet along the front property line at Ketch Road.
  - C. The highest guardrail is no more than 24 feet and the highest roof ridge is no more than 29 feet, measured from the established grade level of 10.52 feet (NAVD88), which complies with the maximum height limitation.
  - D. The project includes enclosed garage parking for three vehicles, in compliance with the minimum parking requirement for single-family residences with 4,000 square feet or more of habitable floor area.
2. The neighborhood is predominantly developed with two-story single-family residences. Most of the newer residences have a rooftop deck and a partial third story. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development.
3. The project site is located approximately 170 feet from Promontory Bay and is separated from the bayfront by Harbor Island Drive and a row of existing residential development. The lowest first floor elevation of the living area of the proposed residence is 11.00 feet (NAVD88), which exceeds the minimum required 9.00-foot (NAVD88) elevation

standard. The floor elevation of the garage (i.e., not living area) slopes from 10.92 to 10.68 feet (NAVD88) with a 2-percent slope driveway connecting to the existing street.

4. The property is located in an area known for the potential of seismic activity and liquefaction. A project-specific Geotechnical Investigation prepared by Coast Geotechnical, Inc. on October 30, 2017, provides recommendations relative to grading, drainage and foundation design. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.
5. The project design addresses water quality with a construction erosion control plan that outlines temporary Best Management Practices (BMPs) to be implemented during construction to minimize erosion and sedimentation, and to minimize pollution of runoff derived by construction chemicals and materials. No water quality impacts to coastal waters are anticipated based upon the location and elevation of the property.
6. The property is not located on the shoreline nor is it located within 100 feet of coastal waters. The project design addresses water quality with a construction erosion control plan and a post construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event run-off on-site. Any water not retained on-site is directed to the City's storm drain system. No water quality impacts to coastal waters are anticipated based upon the location and elevation of the property
7. New landscaping will be verified for compliance with NBMC Section 21.30.075 (Landscaping). Condition of Approval No. 13 is included to require drought-tolerant, and prohibits invasive, species. Prior to issuance of the building permits, the final landscape plans will be reviewed to verify invasive species are not planted.
8. The property is not located near designated public viewpoints or coastal view roads and will not impact public coastal views.

Finding:

- B. *Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.*

Fact in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline; however, the project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities.

2. The residential lot does not currently provide nor does it inhibit public coastal access. The property is located approximately 385 feet from the public beach and vertical coastal access is provided along several streets within the neighborhood. The nearest vertical access point is located at the Shelter Cove street-end. Lateral access is available via a public beach fronting Balboa Island Channel.
3. The nearest Public Viewpoint is located at the end of Channel Road viewing the entrance of the Harbor, approximately 1,200 feet from the property. The proposed residence is not located near Coastal View Roads, as designated in the Coastal Land Use Plan. Due to the distance of the proposed development from identified Public Viewpoints and the project's compliance with height and setbacks, the project will not impact coastal views.

#### SECTION 4. DECISION.

#### **NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2017-105, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

**PASSED, APPROVED, AND ADOPTED THIS 27<sup>TH</sup> DAY OF FEBRUARY, 2018.**



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Patrick J. Alford, Zoning Administrator

**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, wetland or their buffers.
3. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented prior to and throughout the duration of construction activity as designated in the Construction Pollution Prevention Plan (CPPP).
4. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
5. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stock piles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
6. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
7. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
8. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
9. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
10. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.

11. Prior to issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
12. Prior to issuance of a building permit, the Applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Coastal Development Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Coastal Development Permit.
13. Prior to the issuance of a building permit, the Applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species, and water efficient irrigation design. The plans shall be approved by the Planning Division.
14. Prior to the issuance of a building permit, the Applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
15. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance
16. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
17. Coastal Development Permit No. CD2017-105 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
18. To the fullest extent permitted by law, Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Todd Residence including, but not limited to, Coastal Development Permit No. CD2017-105 (PA2017-247). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by Applicant, City, and/or the parties initiating or bringing such proceeding. The Applicant shall indemnify the City for all of City's costs, attorneys' fees,

and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. The Applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.